

BEFORE THE DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE APPLICATION)	
FOR BENEFICIAL WATER USE PERMIT)	AMENDED
NO. 24844-v41I BY LESTER L. FIELD)	FINAL ORDER
AND LOUISE R. GALT)	

* * * * *

The Final Order in this matter described a point of diversion for the grantee Galt as being in the SW1/4 NW1/4 NE1/4 of Section 16, Township 9 North, Range 2 East, all in Broadwater County. That description tracked with the proposed point of diversion contained in the application in this matter. However, the application as published did not reflect any such change in the point of diversion, and therefore, there being no notice of such change, the point of diversion in the above-entitled matter must remain at its historical location. The Department has been further advised that no such change in the point of diversion was intended by the Applicants.

WHEREFORE, the Final Order in the above-entitled matter is hereby amended to reflect a point of diversion in the SW1/4 SE1/4

NW1/4 of Section 16, Township 9 North, Range 2 East, all in
Broadwater County.

DONE this 28th day of April, 1982.

Gary Fritz
Gary Fritz, Administrator
Department of Natural
Resources and Conservation
32 S. Ewing, Helena, MT
(406) 449 - 2872

Matt Williams
Matt Williams, Hearing Examiner
Department of Natural Resources
and Conservation
32 S. Ewing, Helena, MT 59620
(406) 449 - 3962

CASE # 24844

BEFORE THE DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE APPLICATION)	
FOR BENEFICIAL WATER USE PERMIT)	FINAL ORDER
NO. 2484-411 BY LESTER L. FIELD,)	
(SELLER) & LOUISE R. GALT (PURCHASER))	

* * * * *

The Objectors Marks, Christie, and Brandon by and through their attorney Ronald Waterman have submitted objections to the Proposal for Decision in this matter.

The Objectors Hunter have withdrawn any objection to the instant application.

The Proposal for Decision is hereby modified in accord with the objections in this matter. Each and all of the stated objections are merely declaratory of the agreement upon which this order is based. The Department on its own motion adds thereto a description of the point of diversion as contained in the application in this matter.

WHEREFORE, subject to the terms, limitations and restrictions described herein, Application to sever or sell Appropriation Water Right No. 24844 is hereby granted to Lester L. Field to

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sever 25 miner's inches up to 117 acre-feet from lands located in the E1/2 and the E1/2 NW1/4 and the NW1/4 SE1/4, NE1/4 SW1/4 of Section 33, Township 9 North, Range 2 East, all in Broadwater County, which waters are represented by the Howard Doggett Right #6 reflected in the Consolidated Confederate Creek Decrees of 1918 and 1931, and to sell the same to Louise R. Galt for the irrigation of 12 acres more or less in the NE1/4 and 40.6 acres more or less in the SE1/4 of Section 28, Township 9 North, Range 2 East, all in Broadwater County, but only in conjunction with other irrigation of the above described land. Said waters shall not be used prior to May 1 of any year nor subsequent to October 1 of any year. The source of supply shall be Confederate Creek, the waters thereof to be diverted at a point in the SW1/4 NW1/4 NE1/4 of Section 16, Township 9 North, Range 2 East, all in Broadwater County. The Grantee Louise R. Galt shall not cause or otherwise allow the waters provided for herein to run to waste, and in particular shall not divert said waters except in conjunction with waters reflected by other valid rights, including the use of 250 miner's inches of water covered by Application for Change No. 27024-v41I, such that the aggregate volume of water is sufficient to reach the place of use. The Grantee Louise R. Galt shall proceed with reasonable diligence in completing the change reflected herein. The agreement between objectors and purchaser (Addendum A) is incorporated by reference

into this Order and may be enforced as if the same were directly included into the Order.

NOTICE

The Department's Final Order may be appealed in accordance with the Montana Administrative Procedures Act by filing a petition in the appropriate court within thirty (30) days after service of the Final Order.

DONE this 12th day of April, 1982.

Gary Fritz
Gary Fritz, Administrator
Department of Natural
Resources and Conservation
32 S. Ewing, Helena, MT
(406) 449 - 2872

Matt Williams
Matt Williams, Hearing Examiner
Department of Natural Resources
and Conservation
32 S. Ewing, Helena, MT 59620
(406) 449 - 3962

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ADDENDUM A

A G R E E M E N T

THIS AGREEMENT is reached to resolve all objections by the undersigned, hereafter denominated as Marks, Christie and Brandon, to Application No. 24844-v41I pending before the Department of Natural Resources and Conservation concerning Lester L. Field, Seller, and Louise R. Galt, Purchaser, as regards the sale of a 25 miner's inch water right denominated as the Howard Doggett Right # 6 in the Consolidated Confederate Creek Decree # 1918 and 1931.

Objectors withdraw their objection to the transfer of the 25 miner's inch right from Field to Galt upon the condition that the right be used only upon a 12-acre tract in the NE 1/4 and a 40.6 acre tract in the SE 1/4, Sect. 28, T. 9 N., R. 2 E., only in conjunction with other irrigation upon such described land, and that said use of such 25 miner's inch right upon such land be approved by the department or the court; the parties agree the 25 miner's inch right will not be used when the volume of water in the ditch is otherwise insufficient to permit the water to reach the proposed place of use.

Objectors further withdraw their objection to the use of the 25 miner's inch right of water upon the proposed place of use by Galt, provided the water so transferred and conveyed under the application is used in conjunction with and during the same periods as the 250 miner's inch right covered by Application for Change No. 27074-v41I between Lester L. Field and Louise R. Galt or provided the said water is used in conjunction with other valid decreed rights upon lands, in amounts and for such periods as are

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otherwise set forth in the Consolidated Decree or covered by appropriate Application to Change the Place of Use and authorized by either the Department of Natural Resources and Conservation or the District Court of the State of Montana, in and for Broadwater County, as such entities have jurisdiction over the waters of Confederate Creek.

The agreement herein covers only the transfer of the quantity of water identified above and its use in conjunction with other rights but does not resolve nor address any other issues.

Donald C. Marks
Donald Marks

Douglas E. Christie
Doug Christie

Gordon Brandon
Gordon Brandon

Louise R. Galt
Louise R. Galt

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BEFORE THE DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF THE APPLICATION)	
FOR BENEFICIAL WATER USE PERMIT)	Proposal for Decision
NO. 24844-v411 BY LESTER L.)	
FIELD (SELLER) & LOUISE R. GALT)	
(PURCHASER))	

* * * * *

An agreement having been submitted to the Department purporting to resolve the contentions of the parties in the above-entitled matter, the following Proposed Order is hereby entered in conformity therewith.

This Proposal for Decision is in all events subject to the objection of John A. and Janice Hunter, who filed a timely objection to the instant application and who do not appear to be parties to the aforesaid agreement. At their election, a hearing will be held on their assertions in this matter. Said election shall be exercised in the manner and within the time limitations set forth below for objections generally.

PROPOSED ORDER

WHEREFORE, subject to the terms, limitations and restrictions described herein, Application to sever or sell Appropriation Water Right No. 24844 is hereby granted to Lester L. Field to sever 25 miner's inches up to 117 acre-feet from lands located in the E1/2 and the E1/2 NW1/4 and the NW1/4 SE1/4 NE1/4 SW1/4 of

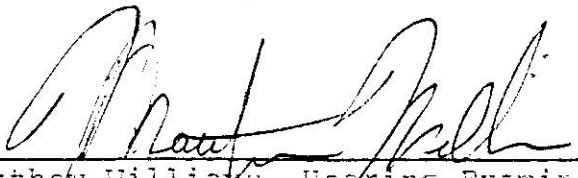
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Section 33, Township 9 North, Range 2 East, all in Broadwater County, which waters are represented by the Howard Doggett Right #6 reflected in the Consolidated Confederate Creek Decrees of 1918 and 1931, and to sell the same to Louise R. Galt for the irrigation of 12 acres more or less in the NE1/4 and 40.6 acres more or less in the SE1/4 of Section 28, Township 9 North, Range 2 East, all in Broadwater County. Said waters shall not be used prior to May 1 of any year nor subsequent to October 1 of any year. The source of supply shall be Confederate Creek. The grantee Louise R. Galt shall not cause or otherwise allow the waters provided for herein to run to waste, and in particular shall not divert said waters except in conjunction with waters reflected by other valid rights such that the aggregate volume of water is sufficient to reach the place of use. The grantee Louise R. Galt shall proceed with reasonable diligence in completing the change reflected herein.

NOTICE

This Proposal for Decision is offered for the review of all parties of record. Objections and exceptions must be filed with and received by the Department of Natural Resources and Conservation on or before March 24, 1982.

DONE this 10th day of March, 1982.


Matthew Williams, Hearing Examiner
Department of Natural Resources
and Conservation
32 S. Ewing, Helena, MT 59620
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